



International Adoption



Immigration and Naturalization Service
Adjudications Division

INS, Dept. of State, Health and Human Resources,

- 3 branches of Federal Government are involved in the International Adoption process.
- The **Dept. of Health and Human Resources** advises States regarding the accreditation process for agencies which conduct home studies and facilitate child placement.
- The **Dept. of State** is chiefly responsible for overseas processing, including background investigations & issuing visas to adopted children.
- The **INS** regulates the petition process; pre-approving parents for adoption, approving children for adoption and inspecting adopted children when they enter the U.S.

How to Adopt an Orphan

- 2 Tracks

- When a child has been identified
- When a child has NOT been identified

- 3 Ways

- Adoption Agency
- Adoption Attorney
- Do it Yourself

Forms I-600A & I-600

- I-600A: Establishes eligibility of prospective adoptive parents (PAPs) to adopt
- I-600: Establishes eligibility of the child as an orphan
- Flexibility: I-600A/I-600 can be filed one at a time or
- Together if child has been identified

Classic Case Process

- PAPs decides to adopt
- PAPs files I-600A and gets homestudy
- I-600A approved
- Child overseas identified (by agency)
- PAPs travel overseas and adopt child
- I-600 filed on behalf of child
- I-600 approved if child is an orphan
- Child immigrates to US; Automatically becomes a citizen

I-600A Process

- I-600A is for the parent
- At least one parent is a USC
- Filed in INS District Office where the PAPs live.
- If PAPs live overseas, file overseas or in US.

I-600A Documents

- ID documents: birth, citizenship, marital status
- FINGERPRINTS
- Compliance with STATE Pre-Adoption Requirements (ex. Counseling)
- HOME STUDY
 - Includes review of Financial Capability to care for child
 - Criminal Background Check

I-600A

- Cost is \$460, \$50 per fingerprint
- Cost includes filing of one I-600 *
- Valid for 18 months
- I-600 must be filed within the 18 months
- Update homestudy if change in personal circumstances

I-600 Process

- Can be filed in U.S. at INS District Office or overseas
- If overseas: at INS office or DOS consular post

I-600 Documents

- ID documents; birth certificate
- Evidence of ADOPTION or legal guardianship
- Evidence establishing the child meets the definition of ORPHAN
- MEDICAL clearance

Who is an orphan under INA §101(b)(1)(F)?

- A child under the age of 16 at the time a petition is filed . . . And who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption . . .

What actions make a child an orphan?

- A child is an orphan if s/he has no parent(s) due to -
- Death: parent(s) have died;
- Disappearance: parent(s) are unaccountably missing or their whereabouts are unknown;
- Abandonment: parent(s) have 1) willfully forsaken all rights to the child, 2) no longer control the destiny of the child, and 3) unconditionally surrender the child to an orphanage or similar institution;
- Desertion: parent(s) have 1) willfully forsaken the child, and 2) refused to carry out parental obligations; child is a ward of the state;
- Separation: parent(s)' rights are involuntarily terminated e.g., abuse or neglect; or
- Loss: parents are involuntarily separated from child by a natural disaster, civil unrest, or other calamitous event.

Who is a surviving parent?

- A child has a surviving parent if -
- One parent is dead, and
- The child has not acquired another parent within the meaning of INA § 101(b)(2)

Who is a sole parent?

- A child's **mother** is a sole parent if -
 - The child was born out of wedlock;
 - The child has not been legitimated; and
 - The child has not acquired another parent within the meaning of INA 101(b)(2); and
- The **father** has:
 - Severed all parental ties, rights, duties and obligations to the child; OR
 - In writing, irrevocably released the child for emigration and adoption.

When may a sole/surviving parent relinquish a child?

- A child is an orphan by the direct relinquishment of a sole or surviving parent to the PAPs if the biological parent –
- Is incapable of providing proper care for the child, and
- Irrevocably releases, in writing, the child for emigration and adoption.

What does incapable of providing proper care mean?

A sole parent is incapable of providing proper care if --

- The parent is . . . unable to provide for the child's basic needs, consistent with the local standards of the foreign-sending country.

What is a communicable disease of public health significance?

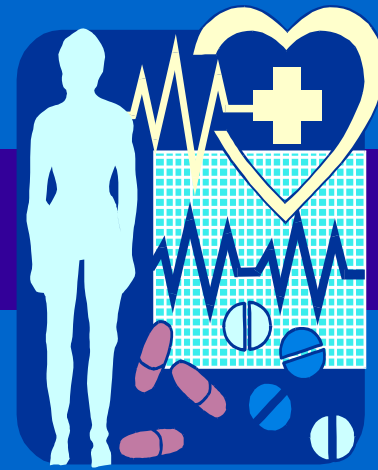


- Infectious TB
- Gonorrhea
- Chancroid
- HIV/AIDS
- Lymphogranuloma venereum
- Granuloma inguinale
- Infectious state syphilis
- Hansen's (Infectious leprosy)

Communicable Disease Waiver

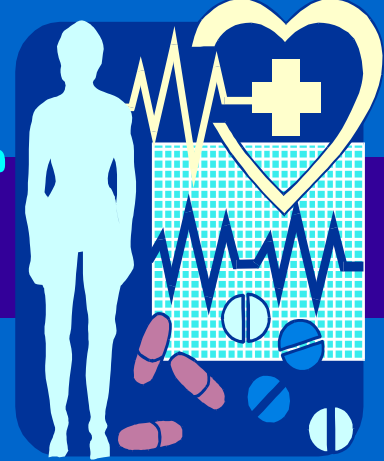
- A waiver is authorized for lawfully adopted children of U.S. citizens
- The waiver may be granted by the AG according to the terms, controls, and conditions considered necessary by HHS.
- The applicant (or sponsor) must identify a suitable health care provider in the U.S.
 - Must report to health care provider within 30 days of admission with the immigrant visa.

What are the required vaccinations?



- Mumps
- Measles
- Rubella
- Polio
- Tetanus
- Diphtheria Toxoids
- Pertussis
- Influenza type B
- Hepatitis B
- Any other ACIP recommended vaccines

Are there any Exceptions for Orphans?



- Yes. The law provides exceptions for orphans under age 10
- These orphans are not exempt altogether
- PAPs must sign affidavit that child will be immunized within 30 days of arrival in U.S. or at the earliest medically appropriate time

DENIALS

- If an I-600 is not approvable, the INS issues a Notice of Intent to Deny
- PAPs files rebuttal and INS may change its decision
- If INS still denies, PAPs may appeal to Administrative Appeals Office (AAO)
- Appeal to U.S. Circuit Court

Approvals

- I-600 may be approved in the U.S. (which notifies overseas post) or at the overseas INS or consulate post
- If full and final adoption abroad, child receives an IR-3 visa.
- If not full and final adoption abroad or if both parents didn't see child, child receives an IR-4 visa.

Immigration of Birth Family Members

- No natural parent or prior adoptive parent can benefit from an immigration petition filed by the adopted child. INA § 101(b)(1)(F)
- No natural sibling can benefit from an immigration petition filed by the adopted child. Matter of Li (BIA Int. Dec. 3207, 20 I & N 700)

Child Citizenship Act

- Automatic citizenship is granted if:
 - A. Child lawfully admitted as a permanent resident
 - B. Child has at least one U.S. parent
 - C. Child is under 18 years of age
 - D. Child is residing in the U.S.

Immigrating Your Child

- IR-3s do not require an Affidavit of Support (I-864)
- IR-3s automatically become citizens upon entry into the U.S. provided
- IR-3s are approx. 66% of all orphan cases

Immigrating Your Child

- IR-4s will require an Affidavit of Support (I-864)
- IR-4s enter the US as LPRs
- IR-4s will automatically become citizens when they meet all the conditions of the Child Citizenship Act of 2000.

IR-4s and the CCA

- IR-4s do not automatically become a U.S. citizen until
 - Adopted in the U.S.
 - Fulfill pre-adoption requirements of State of residence, which may include
 - Re-adoption
 - State Recognition of foreign adoption

Statistics

• China	4681	(89% IR-3s)
• Russia	4279	(99% IR-3s)
• Korea	1870	(99% IR-4s)
• Guatemala	1609	(73% IR-4s)
• Ukraine	1246	(99% IR-3s)
• Romania	782	(66% IR-4s)
• Vietnam	737	(87% IR-3s)
• World Total	19,230	

- Source: Provisional statistics from the Dept. of State
FY 2001

Classic Problems

- Child does not meet Orphan Definition
- PAPs cannot meet financial requirements (Home study)
- Incomplete Paperwork